

December 27, 2013 Email

EXHIBIT 41

From: CMS PartDRCAppeals [mailto:PartDRCAppeals@cms.hhs.gov]
Sent: Friday, December 27, 2013 3:12 PM
To: Redacted Email Addresses
Cc: VISITOR+info@ACLRRAC.com
Subject: RE: Redacted Contract - 2008 RAC Redetermination Decision

The Centers for Medicare & Medicaid Services (CMS) hereby retracts its Redetermination Decision for the 2008 Recovery Audit Contractor (RAC) excluded provider audit. Due to newly discovered information for several prescribers, CMS will perform an additional review of your Level I appeal.

We apologize for the inconvenience, and will provide you with an updated Decision Letter and Prescription Drug Event (PDE) file as soon as possible.

Sincerely,

Part D RAC Team
Division of Plan Oversight and Accountability
Centers for Medicare & Medicaid Services

From: CMS PartDRCAppeals
Sent: Friday, December 06, 2013 4:30 PM
To: Redacted Email Addresses
Cc: VISITOR+info@ACLRRAC.com
Subject: Redacted Contract - 2008 RAC Redetermination Decision

Please see the attached regarding your Level 1 appeal of the Medicare Part D Recovery Audit Contractor (RAC) excluded provider audit. Another e-mail containing the password to open the attachment will soon follow.

Should you have further questions, please contact us at PartD_RACCommunications@cms.hhs.gov via e-mail.

Sincerely,

Part D RAC Team
Division of Plan Oversight and Accountability
Centers for Medicare & Medicaid Services

Audit Cycle Time Calendar

EXHIBIT 42

Part D RAC
Audit Cycle Time Calendar

1 of 1

SOW Description	Responsible Party	Step	Excluded Providers (PY07)			Excluded Providers (PY08-PY09)			Excluded Providers (PY10-PY11)			Unauthorized Prescribers (PY09-PY11)			Unauthorized Prescribers (PY12)			
			Due	Actual	Variance	Due	Actual	Variance	Due	Actual	Variance	Due	Actual	Variance	Due	Actual	Variance	
IPRP Submission	RAC	1	0	02/15/12	0	04/15/13	0	04/16/13	0	04/16/13	0	02/12/14	02/19/14	0	03/17/14	0	0	
DVC Review	DVC	2	45	03/31/12	04/30/12	-30	05/31/13	07/26/13	-56	05/31/13	08/02/13	-53	02/12/14	02/19/14	-7	05/02/14	04/25/14	-6
Notification Letter																		
Submission to CMS	RAC	3	7	05/07/12	06/08/12	-32	08/02/13	08/02/13	0	08/09/13	08/02/13	7	02/26/14	02/19/14	7	05/02/14	04/30/14	-2
CMS NL Submission to SOs	CMS/DPOA	4	7	06/15/12	06/15/12	2	08/09/13	08/06/13	3	08/09/13	08/29/13	-30	02/26/14	02/28/14	-2	05/02/14	05/05/14	-2
Request for Redetermination	SOs	5	30	07/13/12	07/13/12	0	09/05/13	09/05/13	0	09/28/13	09/28/13	0	03/30/14	03/30/14	0	06/04/14		
RAC Rebuttal	RAC	6	15	07/28/12	07/20/12	-8	09/20/13	09/06/13	-10	09/13/13	09/28/13	-10	04/14/14	04/02/14				
Redetermination Decision	Appeals	7	90	10/11/12	11/20/12	-40	12/04/13	01/09/14	-37	12/27/13	01/15/14	-19	06/28/14					
Revised NIPs	RAC	8	7	10/11/12	11/20/12	-13	12/04/13	12/20/13	-22	12/27/13	01/08/14	-15						
Request for Reconsideration	SOs	9	15	11/05/12	12/05/12	0	01/25/14	01/25/14	0	01/30/14	0							
Reconsideration Decision	CMS - DPRD	10	30	01/04/13	01/24/13	-20	02/24/14	03/04/14	-8	N/A	N/A							
Revised NIPs	RAC	11	7	01/04/13	01/24/13	-22	02/24/14	03/04/14	-1	N/A	N/A	0						
Plan Payment Data Due	CMS/DPOA	12	MAX	02/01/13	01/19/13	-22	03/14/14	03/14/14	0	02/07/14	03/14/14	-35						
Offset	CMS DPO	13	MAX	02/01/13	02/01/13	0	04/01/14	04/01/14	0	04/01/14	04/01/14	0						
Notification of Invoice Amount	CMS/DPOA	14	15	02/28/13	02/15/13	-3	04/26/14	04/11/14	5	04/26/14	04/11/14	5						
RAC Invoice	RAC	15	15	02/28/13	02/15/13	13	04/26/14	04/14/14	12	04/26/14	04/14/14	12						
RAC Payment	CMS/DFM	16	30	03/17/13	04/26/13	-40	05/14/14	05/07/14	7	05/14/14	05/07/14	7						
NAIRP Cycle Time Variance (Days)		299		436	-137	386		-74	386		-106		-2					

Upcoming Events

November 17, 2013 Email

EXHIBIT 43

From: Christopher Mucke
To: Nicole.Hoey@cms.hhs.gov
Cc: Marilyn.Taverner@cms.hhs.gov; Brown, Sonia J. (CMS/CPI); Collins, Pamela K. (CMS/DAGM); Gil.Mucke
Subject: Part D RAC Contract Execution
Date: Sunday, November 17, 2013 9:30:30 PM
Importance: High

Nicole,

We will begin the process of sending notification of improper payment letters, in amounts totaling \$1.05 billion to plan sponsors on November 23, 2013. These letters will be sent as required in the PWS signed by CMS on January 13, 2011.

In light of CMS' documented position of mitigating the amount of recoveries in this program, I anticipate that I will receive some written communication from you requiring ACLR to suspend recovery audit activities on the existing contract. If so, please ensure that I receive this communication no later than close of business, 5:00pm EST on November 22, 2013. Thank you.

Christopher Mucke | Managing Principal | ACLR, LLC

38705 7 Mile Rd, Ste 251 | Livonia, Michigan 48152-3975 | (734) 744 - 4401 | 7(734) 744 - 4150 |*
<mailto:cmucke@aclrsbs.com>

The information contained in this message may be privileged and confidential and protected from disclosure. If you are not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination of, distribution of, copying of, or taking action in reliance on this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by replying to the message and deleting it from your computer.

November 22, 2013 Email

EXHIBIT 44

From: Christopher Mucke
To: Hoey, Nicole E. \(CMS/OAGM\)
Cc: Gilbert.Mucke@vbn78.navy.mil; Menefee, Justin V(CMS/OAGM); Schultz, Theresa A. V(CMS/OAGM); Collins, Pamela K. V(CMS/OAGM); Brown, Sonja J. V(CMS/CPI); Majestic, Mark V(CMS/CPI); Downs, Tanette N. V(CMS/CPI)
Subject: Re: Part D RAC Contract Execution
Date: Saturday, November 23, 2013 9:51:37 AM

Nicole, as discussed on the call, and for which we can provide copious OAGM support, in the form of documentation and audio files, indicating same, the current PWS does not require the approval, agreement, verification, or vetting of data by CMS.

After speaking with Gil; however, my understanding of your email is that it is the functional equivalent of a stop work order and that ACLR has been relieved of its recovery audit effort responsibilities related to the \$1.05 billion in improper payments it identified; collection efforts have always been the responsibility of CMS. As such, we will not send the notification letters for amounts owed.

Christopher Mucke
 Managing Principal
 ACLR

On Nov 22, 2013, at 3:21 PM, "Hoey, Nicole E. \(\text{CMS/OAGM}\)" <Nicole.Hoey@cms.hhs.gov> wrote:

Chris,

Per our discussion today, CMS does not approve ACLR's proposed action to send Notification of Improper Payment Letters to Plan Sponsors on November 23, 2013. Hence, ACLR, a CMS contractor, should not do so. The methodology that was used by ACLR to identify improper payments and the potential overpayments themselves have not been agreed to nor vetted by CMS or its data validation contractor.

The methodology must first be verified and data vetted before CMS will approve of ACLR going forth with collection efforts (i.e., sending Notification of Improper Payment Letters to Plan Sponsors).

Thank you,

Nicole Hoey
 Contracting Officer
 Division of Medicare Support Contracts
 Phone: 410-786-0489
 BlackBerry: 410-960-4108
 Fax: 410-786-9088
 MailStop: B2-14-21
nicole.hoey@cms.hhs.gov

From: Christopher Mucke [<mailto:cmucke@acirsbs.com>]
Sent: Sunday, November 17, 2013 9:30 PM
To: Hoey, Nicole E. (CMS/OAGM)
Cc: Tavenner, Marilyn (CMS/OA); Brown, Sonja J. (CMS/CPI); Collins, Pamela K. (CMS/OAGM); Gil Mucke
Subject: Part D RAC Contract Execution
Importance: High

Nicole,

We will begin the process of sending notification of improper payment letters, in amounts totaling \$1.05 billion to plan

sponsors on November 23, 2013. These letters will be sent as required in the PWS signed by CMS on January 13, 2011.

In light of CMS' documented position of mitigating the amount of recoveries in this program, I anticipate that I will receive some written communication from you requiring ACLR to suspend recovery audit activities on the existing contract. If so, please ensure that I receive this communication no later than close of business, 5:00pm EST on November 22, 2013. Thank you.

Christopher Mucke | Managing Principal | ACLR, LLC

38705 7 Mile Rd, Ste 251 | Livonia, Michigan 48152-3975 | (734) 744 - 4401 | 7(734) 744 - 4150 | *
<mailto:mailto.cmucke@aclrsbs.com>

The information contained in this message may be privileged and confidential and protected from disclosure. If you are not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination of, distribution of, copying of, or taking action in reliance on this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by replying to the message and deleting it from your computer.

May 28, 2014 Revised NAIRP Approval

EXHIBIT 45

From: Thomas_India_M_(CMS/CPI)
To: Christopher_Mucke
Cc: Brown_Sonja_J_(CMS/CPI); Abankwah_Rosalind_M_(CMS/CPI); Tetkoski_Frank_(CMS/CPI); Kenya_Dominica_(CMS/CPI); Brandenburg_Sara_M_(CMS/CPI); Newkirk_Delois_J_(CMS/CPI); Thais_Thompson
Subject: Approved Revised Duplicate Payment NAIRP
Date: Wednesday, May 28, 2014 9:04:52 AM

Good Morning,

CMS approves the Duplicate Payment Revised NAIRP submitted on May 13th. CMS is reviewing the RFI for this audit review and will provide comments. Please submit the PDE records associated with the Duplicate Payment review via Quickr prior to sending to plan sponsors. Let me know if you have any questions.

Thank you,

India M. Thomas
 Health Insurance Specialist
 CMS/CPI/MPIG/DPOA
 ext 61152

From: Christopher Mucke [mailto:cmucke@aclrsbs.com]
Sent: Tuesday, May 13, 2014 1:54 PM
To: Thomas, India M. (CMS/CPI)
Cc: Brown, Sonja J. (CMS/CPI); Abankwah, Rosalind M. (CMS/CPI); Tetkoski, Frank (CMS/CPI); Kenya, Dominica (CMS/CPI); Brandenburg, Sara M. (CMS/CPI); Newkirk, Delois J. (CMS/CPI); Thais Thompson
Subject: RE: Revised Duplicate Payment Decision Notice

India,

I have attached a copy of the Revised NAIRP, which incorporates CMS' request for a complex review. I have also attached a copy of a draft RFI that will be submitted to the SOs upon final CMS approval of the issue. Please let me know if you have any questions, Chris.

Christopher Mucke | Managing Principal | ACLR, LLC
 38705 7 Mile Rd, Ste 251 | Livonia, Michigan 48152-3975 | (734) 744 - 4401 | (734) 744 - 4150 |
mailto:cmucke@aclrsbs.com

The information contained in this message may be privileged and confidential and protected from disclosure. If you are not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination of, distribution of, copying of, or taking action in reliance on this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by replying to the message and deleting it from your computer.

From: Thomas, India M. (CMS/CPI) [mailto:India.Thomas@cms.hhs.gov]
Sent: Tuesday, May 06, 2014 11:39 AM
To: Sean Donaghy; Christopher Mucke
Cc: Brown, Sonja J. (CMS/CPI); Abankwah, Rosalind M. (CMS/CPI); Tetkoski, Frank (CMS/CPI); Kenya, Dominica (CMS/CPI); Brandenburg, Sara M. (CMS/CPI); Newkirk, Delois J. (CMS/CPI)
Subject: Revised Duplicate Payment Decision Notice

Good Morning,

Attached is CMS' revised decision on the Duplicate Payment NAIRP. Please review and submit your updated NAIRP for final approval by COB 5/13/14. Let us know if you have any questions.

Thank you,

India M. Thomas
 Health Insurance Specialist
 Division of Plan Oversight & Accountability
 Centers for Medicare & Medicaid Services
 7500 Security Boulevard
 Baltimore, Maryland 21244
 Mail Stop AR-1B-50

May 6, 2014 Email

EXHIBIT 46

From: [Thomas, India M. \(CMS/CPI\)](#)
To: [Sean.Donaghv](#); [Christopher.Mucke](#)
Cc: [Brown, Sonja J. \(CMS/CPI\)](#); [Abankwah, Rosalind M. \(CMS/CPI\)](#); [Tetkoski, Frank \(CMS/CPI\)](#); [Kenya, Dominica \(CMS/CPI\)](#); [Brandenburg, Sara M. \(CMS/CPI\)](#); [Newkirk, Delois J. \(CMS/CPI\)](#)
Subject: Revised Duplicate Payment Decision Notice
Date: Tuesday, May 06, 2014 11:38:41 AM
Attachments: [Revised Duplicate Payment Decision Notice.docx](#)

Good Morning,

Attached is CMS' revised decision on the Duplicate Payment NAIRP. Please review and submit your updated NAIRP for final approval by COB 5/13/14. Let us know if you have any questions.

Thank you,

India M. Thomas
Health Insurance Specialist
Division of Plan Oversight & Accountability
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244
Mail Stop AR-18-50
410.786.1152 desk
410.922.2625 ads
410.786.0711 fax
India.Thomas@cms.hhs.gov

Revised Duplicate Payment Decision Notice

Date: May 6, 2014

Issue: Duplicate Payment

RAC recommended recovery audit type: Automated Review

Estimated Potential Recoveries: \$4 million annually

Process Synopsis: The Part D Recovery Audit Contractor (RAC) has outlined steps to calculate improper payments associated with duplicate payments for Medicare Part D PDE records. The proposed review process consists of an exact match review, calculating days elapsed between matched records, and calculating allowable days elapsed to identify duplicative records.

During the exact match portion of the review the RAC will identify all PDE records where the contract, beneficiary, medication, and fill number match using the PTAP_CNTRT_OF_REC, PTAP_PBP_OF_REC, PTAP_INS CLAIM_NUM, PTAP_PROD_SERVICE_ID, PTAP_FILL_NUM fields of the PDE. PDEs associated with partial fills are removed as well as duplicative records associated with long term care, vaccination administrative fees, and duplicates arising from the transition from a retail pharmacy to a mail order pharmacy are eliminated.

To calculate the elapsed days, a "Days Elapsed" field is created and populated as the difference between the PTAP_RX_DOS_DT fields of the original PDE record from that of the subsequent PDE record. Then an "Allowable Days Elapsed" field is created and is calculated by multiplying the days-supply field of the original PDE recorded by 50%. Once complete, PDE records where Days Elapsed is less than Allowable Days Elapsed are identified.

Decision Summary: CMS issued a conditional approval to the RAC on April 18, 2014. The RAC was required to modify the NAIRP to clearly define a duplicate payment, provide details for the 50% elapsed time approach, and provide the audit years and estimated recovery amounts. The RAC submitted a revised NAIRP on April 25, 2014 that addressed the requirements of the conditional approval. Based on further review and considerations, CMS believes the Duplicate Payment review should be a complex review due to the complexities of the fields that must be matched and the calculation of the elapsed time. This will help reduce the potential of including false positives in the improper payment amounts.

In conclusion, CMS is revising the conditional approval of the Duplicate Payment proposal with the following modifications:

- The RAC change the review from automated to complex

A Revised NAIRP must be submitted to CMS within 7 days for final approval after the RAC makes the appropriate modifications. Once CMS provides the final approval, the RAC should submit a draft of the Request for Information (RFI) and the associated PDE records to CMS for review prior to sending to plan sponsors.

Request for Information Letter

EXHIBIT 47

DEPARTMENT OF HEALTH & HUMAN SERVICES
CENTERS for MEDICARE & MEDICAID SERVICES
7500 Security Boulevard, Mail Stop AR-18-50
Baltimore, Maryland 21244-1850

Center for Program Integrity



Date: Date

SUBJECT: REQUEST FOR INFORMATION (RFI)

CEO First Name CEO Last Name
Plan Sponsor Name
Address 1
Address 2
City, State Zip Code

Re: Plan Sponsor Name, Contract #

Dear CEO Prefix CEO Last Name:

The Centers for Medicare & Medicaid Services (CMS) has retained a contractor, ACLR, LLC (ACLR), to carry out the Recovery Audit Contractor (RAC) program efforts for the Medicare Part D program. The Division of Plan Oversight and Accountability (DPOA) within the Center for Program Integrity (CPI) is responsible for the Part D RAC program. The RAC program, mandated by Congress through the Affordable Care Act, is aimed at identifying and recouping improper payments made by the Medicare program.

As part of our review of Prescription Drug Event (PDE) records associated with duplicate payments, we have identified PDE records, in the attached Duplicate Payment Exception Report, as being potentially duplicative; the originating PDE records for each of these events have also been included. Duplicative PDE records will be used as the basis for our calculation of any improper payments. In an effort to ensure the accuracy of this information, we are allowing Plan Sponsor Name, Contract Number, 90 calendar days from the date of this notification to submit documentation in support of or against the duplicative PDE records listed in the attached Duplicate Payment Exception Report.

Please submit copies of the prescriptions for both the originating and duplicative PDE records; override documentation due to loss, change in dosage, or other authorized override event; or other uniformly maintained readily retrievable record to demonstrate the legitimacy of the potentially duplicative PDE records listed in the RFI.

If an improper payment is determined at the conclusion of our review, a Notification of Improper Payment (NIP) will be issued to Plan Sponsor Name, Contract Number. The NIP will inform you of the improper payment amount as well as appeal instructions should you disagree with our findings.

14AR177

Please review the attached report and submit your response via Secure Mail to
info@ACLRRAC.com within 90 days from the date of this request.

Sincerely,

ALCR, LLC
Part D National Recovery Auditor

Enclosure: Duplicate Payment Exception Report

14AR178

cc: CFO: CFO Last Name, CFO First Name
MCO: MCO Last Name, MCO First Name
AM: AM Last Name, AM First Name

14AR179

June 2014 Email

EXHIBIT 48

From: Brown, Sonja J. (CMS/CPI) (<mailto:sonja.brown@cms.hhs.gov>)
Sent: Thursday, June 12, 2014 10:47 AM
To: Gil Mucke
Cc: Thais Thompson; Kenya, Dominca (CMS/CPI)
Subject: RE: Contractual/Upload Data Issues: Approved Duplicate Payment RFI

Good Morning Gil,
Please see my responses below. If it requires us to discuss further, I will set up a call to do so.
Thanks,
Sonja

From: Gil Mucke [<mailto:gmucke@aclrsbs.com>]
Sent: Wednesday, June 11, 2014 9:50 PM
To: Brown, Sonja J. (CMS/CPI)
Cc: Thais Thompson
Subject: Contractual/Upload Data Issues: Approved Duplicate Payment RFI

Sonja,

Sorry to jump in from the outside although I wanted to at least try and clarify some thoughts and concerns with the below.

Contractual: Based on your email 11 June below, we do recognize the authority of CPI, under Appendix E (New Issue Submission and Approval Process) Step 5 “CMS shall provide the RAC with a written explanation as to the terms of the conditional approval,” to dictate the terms of the actual approval. Based on India’s email 28May, the terms included waiting for the RFI (now done) and the PDE records uploaded to Quickr prior to sending to the plan sponsors (Done although issues addressed below). Some other emails indicated that there might also be an additional term for CMS to review prior to an RFI being released. If true, can we get clarification of the process associated including timeframe once we resolve the upload/data delivery? If not, then the upload/data delivery is the only resolution required. Before the RFIs are sent to the plan sponsors, CMS will approve the RFI language and review the PDE data that is associated with the review. This review will be done by the DVC. The DVC will take ACLR’s final NAIRP and apply the approved methodology to ensure that the PDE records that have been identified, should be included in the RFI. This process should be no longer than a week once the data delivery issue is resolved. Once the DVC and the ACLR agree on the results, ACLR can move forward with the RFIs.

Upload/Data Delivery: The issue with the excel formatted file is a Microsoft program design limitation as these data files exceed the capabilities of the program. This negates upload or CD for excel based files. Based on the PRIS design, we also have the size file limitations and the opportunity to perform via PDF or DOCX. My guess is PDF or DOCX will also not meet your needs although if it does, please advise. If our assumptions are correct, we have two possible courses of action: CMS believes the best option is #2. We have sent one of the files to Livanta to see if they are able to convert to a readable format in order to perform the validation check. However, going forward, we must come up with a resolution that will address the size limitation issue. I don’t have the answers right now but will look into it from our end. If ACLR could also

look into this issue further, that would be great. We will also address this issue with the PRIS folks and let you know if there are any additional concerns.

- 1) ACLR can set up a conference call to assist in the conversion of the files which might not work based on internal Access program capabilities.
- 2) Best option should be for Livanta, with the Sequel server capability, to take this data via the text file to support the reviewable format requirements. This discussion has taken place in the past with Livanta as the limitations of excel with the larger issues were discussed. I believe they are aware of the need and capability to support.

Understand we do not have the ability to task Livanta to do this action. Based on my read, this should support CPI's initial goals to look at the data and it will also be need to be vetted out before the automated review as the excel limitations/upload capabilities will not go away. These issues will also need to be addressed as we move forward into PRIS to ensure each stakeholders needs are met.

Best regards, Gil

From: Thomas, India M. (CMS/CPI) [mailto:India.Thomas@cms.hhs.gov]
Sent: Wednesday, June 11, 2014 2:19 PM
To: Thais Thompson; Brown, Sonja J. (CMS/CPI)
Subject: Approved Duplicate Payment RFI

Thais,

Attached is the approved RFI letter. Please use this document to prepare the letters to plan sponsors. Let us know if you have any questions.

India M. Thomas
Health Insurance Specialist
CMS/CPI/MPIG/DPOA
ext 61152

From: Thais Thompson [mailto:tthompson@aclrsbs.com]
Sent: Wednesday, June 11, 2014 2:03 PM
To: Brown, Sonja J. (CMS/CPI)
Cc: Thomas, India M. (CMS/CPI)
Subject: RE: PY10 PY11 PY12 Duplicate Payment PDE RFI

Hi Sonja,

Do you have the changes for the RFI yet?

From: Brown, Sonja J. (CMS/CPI) [mailto:sonja.brown@cms.hhs.gov]
Sent: Wednesday, June 11, 2014 10:31 AM
To: Thais Thompson
Cc: Thomas, India M. (CMS/CPI)
Subject: RE: PY10 PY11 PY12 Duplicate Payment PDE RFI

Thais,

CMS had a couple of changes to the RFI which will be sent over this morning. I mentioned that ACLR should hold off as your email indicated that the RFIs would be sent out on Wednesday and I wanted to give CMS a chance to review the PDE data before that happened.

You are correct in that this piece of the process is not in the current contract. ACLR and CMS acknowledged that everything that happens after the "conditional approval" will have to be worked out and will be included in the modification that we anticipate sending over to OAGM next week. In the meantime, we are working to get the data reviewed so that everything can move along. However, I don't believe Delois is making any headway with the data that was sent. She will be responding to your email regarding the restrictions that we are facing when we receive data in txt format. We've encountered this issue in the past and it required ACLR to resend in a different format. Unfortunately, we do not have the resources here to manipulate the contractor's data and require that it's already in a readable format when it is submitted. You may want to consider sending it via CD?? Do you know off hand how many PDE records we are dealing with for each plan year?

Thanks,
Sonja

From: Thais Thompson [mailto:tthompson@aclrsbs.com]
Sent: Tuesday, June 10, 2014 6:31 PM
To: Brown, Sonja J. (CMS/CPI)
Subject: RE: PY10 PY11 PY12 Duplicate Payment PDE RFI

Hi Sonja,

My question on the RFI is based on India's NAIRP approval email from 28 May. Based on your statement below, it appears that the RFI is good and CMS is requesting that ACLR not send until the uploaded data is reviewed. If this is accurate, what is the estimate for days to review? Based on my review of the contract, this is outside the current process (Section 2.1) and after the initial delay in issue approval. Any more delays should probably have OAGM involvement.

I completely understand that there is external pressure outside your control, similar to my own position. Hopefully this review is quick and we can stay on schedule. Please advise.

Regards,
Thais Thompson | Project Director | ACLR, LLC
38705 7 Mile Rd, Ste 251 | Livonia, Michigan 48152-3975 | ☎(912) 308-0943 | ☎(702) 552 - 4574|  tthompson@aclrsbs.com

From: Thais Thompson
Sent: Tuesday, June 10, 2014 4:42 PM
To: 'Brown, Sonja J. (CMS/CPI)'
Subject: RE: PY10 PY11 PY12 Duplicate Payment PDE RFI

Sonya,

I forgot to mention the RFI. Was this reviewed prior to the data upload and are there any changes?

From: Brown, Sonja J. (CMS/CPI) [<mailto:sonja.brown@cms.hhs.gov>]
Sent: Tuesday, June 10, 2014 11:02 AM
To: Thais Thompson
Cc: Thomas, India M. (CMS/CPI); Kenya, Dominca (CMS/CPI); Brandenburg, Sara M. (CMS/CPI); Newkirk, Delois J. (CMS/CPI)
Subject: RE: PY10 PY11 PY12 Duplicate Payment PDE RFI

Thank you Thais.

From: Thais Thompson [<mailto:tthompson@aclrsbs.com>]
Sent: Tuesday, June 10, 2014 11:01 AM
To: Brown, Sonja J. (CMS/CPI)
Cc: Thomas, India M. (CMS/CPI); Kenya, Dominca (CMS/CPI); Brandenburg, Sara M. (CMS/CPI); Newkirk, Delois J. (CMS/CPI)
Subject: RE: PY10 PY11 PY12 Duplicate Payment PDE RFI

Hi Sonya,

I will get to work on the format issue and will get back to you once resolved.

Thais Thompson | Project Director | ACLR, LLC
38705 7 Mile Rd, Ste 251 | Livonia, Michigan 48152-3975 | (912) 308-0943 | (702) 552-4574 | tthompson@aclrsbs.com

From: Brown, Sonja J. (CMS/CPI) [<mailto:sonja.brown@cms.hhs.gov>]
Sent: Tuesday, June 10, 2014 10:59 AM
To: Thais Thompson
Cc: Thomas, India M. (CMS/CPI); Kenya, Dominca (CMS/CPI); Brandenburg, Sara M. (CMS/CPI); Newkirk, Delois J. (CMS/CPI)
Subject: RE: PY10 PY11 PY12 Duplicate Payment PDE RFI

Good Morning Thais,

We will need ACLR to resubmit the duplicate payment files in a readable format. The files have been loaded into QuickR as text files and CMS is unable to read them. Please hold off on sending the RFIs for this study until CMS is able to read and review what has been submitted.

Thanks,
Sonja

From: Thais Thompson [<mailto:tthompson@aclrsbs.com>]
Sent: Monday, June 09, 2014 10:03 AM
To: Brown, Sonja J. (CMS/CPI)
Cc: Thomas, India M. (CMS/CPI); Kenya, Dominca (CMS/CPI)
Subject: PY10 PY11 PY12 Duplicate Payment PDE RFI

Hi Sonya,

ACLR has uploaded all of the duplicate payment files for PY10, PY11, and PY12 (PDE Records, Record Combination Explanation, PDE Count by Contract) into QuickR as requested.

ACLR anticipates sending out the RFI's no later than Wednesday (June 11th). Should CMS have any changes to be made to the RFI, please let us know as soon as possible.

Regards,

Thais Thompson | Project Director | ACLR, LLC

38705 7 Mile Rd, Ste 251 | Livonia, Michigan 48152-3975 | ☎(912) 308-0943 | ☎(702) 552 - 4574|  tthompson@aclrsbs.com

Excerpts from the Deposition of Sonja Brown

EXHIBIT 49

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

- - - - - X
:
ACLR, LLC,
:
:
Plaintiff, : Civil Action No. 15-767
: and
vs. : Civil Action No. 16-309
:
UNITED STATES OF AMERICA, : Judge Campbell-Smith
:
Defendant. :
:
- - - - - X

Baltimore, Maryland

Thursday, August 17, 2017

DEPOSITION OF SONJA JEFFERSON BROWN

called for examination by counsel for Plaintiff,
pursuant to notice, at the offices of Department of
Health and Human Services, Office of General Counsel,
7500 Security Boulevard, Central Building, Room
C2-01-17, Baltimore, Maryland, commencing at 12:17
p.m. and concluding at 1:40 p.m., before Kirk A.
Sturges, a Notary Public for the State of Maryland.

Sonja Jefferson Brown
Case No. 15-767 and 16-309

ACLR, LLC v. THE UNITED STATES
August 17, 2017

1 A I remember maybe being asked a question:

2 Was it allowed?

3 I don't know. But I do remember
4 consulting with the contracting officer.

5 Q You didn't advise the contracting officer
6 that you thought it was acceptable under the
7 statement of work -- did you -- or ACLR's contract?

8 A No, I did not.

9 (The document referred to below was
10 marked for identification as Brown
11 Deposition Exhibit No. 69.)

12 BY MR. BONELLA:

13 Q I'm showing you what has been marked as
14 Exhibit 69.

15 Can you identify this document for me?

16 A It's an email with the subject of
17 contractual upload data issues for the duplicate
18 payment RFI?

19 Q What is RFI?

20 A Request for information.

21 Q And you directed ACLR to send duplicative
22 payment PDEs to the data validation contractor for

Sonja Jefferson Brown
Case No. 15-767 and 16-309

ACLR, LLC v. THE UNITED STATES
August 17, 2017

1 review prior to sending out RFIs to plan sponsors.

2 Correct?

3 A Yes.

4 Q And such a review was not required under
5 the approved duplicate payment NAIRP; was it?

6 A I'd have to go back and look. Let me
7 just read this over. (Witness reviews document) Okay.

8 Q It was not required in the approved
9 NAIRP. Correct?

10 A No. This was outside of the NAIRP time
11 frame; so, this was after approval.

12 Q Is there anywhere in the statement of
13 work where imposing this condition was allowed by
14 CMS?

15 A No, not in -- no.

16 Q So, essentially, it was a unilateral
17 modification of the statement of work --

18 MR. CARNEY: Objection. It calls for a
19 legal conclusion.

20 BY MR. BONELLA: (RESUMING)

21 Q -- by CMS?

22 A There was no official modification.

Sonja Jefferson Brown
Case No. 15-767 and 16-309

ACLR, LLC v. THE UNITED STATES
August 17, 2017

1 contract?

2 A I don't recall.

3 Q Take a look at Exhibit 19. It's the
4 denial of the sales tax.

5 A Okay. I skip from -- found it. Okay.

6 Q Exhibit 19 is an email you wrote denying
7 ACLR's sales tax NAIRP. Correct?

8 A Yes.

9 Q And the basis for the denial was that it
10 was currently open and active with another CMS
11 contractor?

12 A Yes.

13 Q Did CMS make any attempt to work with
14 ACLR to approve this NAIRP?

15 A No.

16 Q And no walk-through was scheduled for
17 this NAIRP?

18 A No. There wasn't.

19 Q Do you see in appendix E of the statement
20 of work --

21 MR. CARNEY: I would just note for the
22 record this was covered by her in her 30(b)(6)

Sonja Jefferson Brown
Case No. 15-767 and 16-309

ACLR, LLC v. THE UNITED STATES
August 17, 2017

1 capacity.

2 MR. BONELLA: As a 30(b) (6) CMS
3 representative.

4 MR. CARNEY: Right. So, to the extent
5 that we are going to go through this, she has
6 testified about it.

7 MR. BONELLA: I just have a few questions.

8 BY MR. BONELLA:

9 Q In appendix E, step three is feedback.
10 Correct?

11 A Yes.

12 Q Feedback process?

13 A Yes.

14 Q Did CMS make any attempt to provide
15 feedback on ACLR's sales tax NAIRP?

16 A Now, this is in the middle of a process
17 where CMS is considering to approve; so, it never
18 made it to this stage of a NAIRP approval process.

19 Q So, the approval process set forth in
20 appendix E was not utilized for the ACLR sales tax
21 NAIRP?

22 A Not after step one.

Sonja Jefferson Brown
Case No. 15-767 and 16-309

ACLR, LLC v. THE UNITED STATES
August 17, 2017

1 Q And there is no mention in the statement
2 of work of open and active audits. Isn't that true?

3 A That specific language, "open and active,"
4 no.

5 Q Who made the final decision from CMS that
6 the sales tax NAIRP was open -- the ACLR sales tax
7 NAIRP was open and active with another CMS contractor?

8 A My recollection was Rosalind Abankwah,
9 which was my manager at the time.

10 Q Take a look at Exhibit 8.

11 A I have eight.

12 Q Take a look at Exhibit 8. This is the
13 MEDIC's prescription drug PDE records inappropriate
14 use of sales tax field vulnerability.

15 Were you aware of this report when ACLR
16 submitted its sales tax NAIRP?

17 A Not the report itself.

18 Q So, you didn't read the report prior to
19 denying the sales tax NAIRP?

20 A I don't recall reading it.

21 Q Did Ms. Abankwah mention that she had
22 read this report?

Sonja Jefferson Brown As
Case No. 16-309

ACLR, LLC v. THE UNITED STATES
August 16, 2017

1 I don't remember.

2 Q. Can you read the first sentence?

3 A. The MEDIC does not recover improper
4 payments that are identified. They usually
5 contact the sponsors to have them fix the PDEs.

6 Q. And that's correct, isn't it?

7 A. Yes.

8 (S. Brown Exhibit No. 32 was marked
9 for identification.)

10 BY MR. BONELLO:

11 Q. I'm showing you what's been marked as
12 Exhibit 32.

13 Can you identify this document for me?

14 A. It looks to be a claim submitted by
15 ACLR.

16 Q. It's actually the response to the
17 claim --

18 A. Oh, okay.

19 Q. -- by CMS, isn't it? Isn't that true?

20 A. I'm looking -- yes.

21 Q. Did you participate in the creation of
22 this document?

October 2014 Email Thread

EXHIBIT 50



From: Scott, Jamie (CMS/CPI)
Sent: Monday, October 27, 2014 1:25 PM
To: Brown, Sonja J. (CMS/CPI)
Cc: Thomas, India M. (CMS/CPI); Harris, Monique (CMS/CPI)
Subject: RE: ACTION REQUESTED: Provide items requested by GAO for engagement concerning Part D RACs (Job Code 291235)
Attachments: RAC_Error_Rates_20140908.xlsx; 61051Monthly_Progress_Report_20140909.docx; 70098Monthly_Progress_Report_20141010.docx

4. **RAC_Error_Rates_20140908.xlsx** – Requested Livanta provide an updated spreadsheet once validation of DEA Scheduled Refill Errors is complete.

5. Through feedback received from plan sponsors and additional analysis, CMS determined a number of the potential improper payments identified in the RACs Duplicate Payment review were false positives due to dosage changes. The RACs methodology used to identify potential improper payments did not include enough PDE record fields to effectively determine potentially duplicate payments. To lessen the burden on plan sponsors CMS has requested the RAC complete the study using the CMS suggested protocol below.

CMS Recommended Protocol: Calculate the dosage for each PDE in the pair by dividing the quantity dispensed by the days supply. Compare the dosage for the originating PDE and the dosage for the duplicate PDE and compare the pairs for this population. If the dosage increased by 50% or more, then apply the following criteria to identify the pairs that are most likely to be false positives: (1) where the beneficiary (HICN), the drug (NDC) and the fill number are the same and (2) the drug service reference (prescription) number and the date of service (DOS), also called the fill date, are different. Additionally, the DOS of the subsequent PDE is later. Lastly, remove any PDEs where the service provider id (pharmacy id) and the date of service are different.

6. **61051Monthly_Progress_Report_20140909.docx & 70098Monthly_Progress_Report_20141010.docx** – Two most recent monthly progress reports, please let me know if additional reports are needed.

Jamie E. Scott, CPA, MS
Auditor
Division of Plan Oversight & Accountability
Center for Program Integrity
Centers for Medicare & Medicaid Services
410.786.0978 desk
Jamie.Scott@cms.hhs.gov

From: Thomas, India M. (CMS/CPI)
Sent: Monday, October 27, 2014 8:36 AM
To: Scott, Jamie (CMS/CPI); Harris, Monique (CMS/CPI)
Cc: Brown, Sonja J. (CMS/CPI)
Subject: FW: ACTION REQUESTED: Provide items requested by GAO for engagement concerning Part D RACs (Job Code 291235)

I'm just seeing this email. Please disregard the email I sent.

As I stated in my email, only include error rates for actual validations, not special studies. Let me know if you have any questions.

India M. Thomas
Health Insurance Specialist
CMS/CPI/MPIG/DPOA
ext 61152

From: Brown, Sonja J. (CMS/CPI)
Sent: Friday, October 24, 2014 5:47 PM
To: Newkirk, Delois J. (CMS/CPI); Kenya, Dominica (CMS/CPI)
Cc: Thomas, India M. (CMS/CPI); Harris, Monique (CMS/CPI); Tetkoski, Frank (CMS/CPI)
Subject: FW: ACTION REQUESTED: Provide items requested by GAO for engagement concerning Part D RACs (Job Code 291235)

Delois/Dominica,

Please begin gathering items for item #3 highlighted below. I know we've posted some memos to the RAC page on cms.gov but there may be a couple more out there that have not been posted. We will have to check through HPMS to ensure we've captured everything.

Jamie/Monique,

Please gather information for items 4,5, and 6 highlighted below.

We will meet on 11/4 to discuss and review all of the items that have been gathered.

Thanks,
Sonja

From: Abankwah, Rosalind M. (CMS/CPI)
Sent: Friday, October 24, 2014 4:43 PM
To: Brown, Sonja J. (CMS/CPI); Thomas, India M. (CMS/CPI)
Subject: FW: ACTION REQUESTED: Provide items requested by GAO for engagement concerning Part D RACs (Job Code 291235)

Please see below.

Thanks,
Rosalind

From: Mason-Elbert, Angela N. (CMS/CPI)
Sent: Friday, October 24, 2014 3:55 PM
To: Abankwah, Rosalind M. (CMS/CPI)
Subject: ACTION REQUESTED: Provide items requested by GAO for engagement concerning Part D RACs (Job Code 291235)

Rosalind:

After yesterday's Part D RACs meeting, GAO has requested the following items:

1. ACLR's personnel qualifications and past performance that were used as criteria for its selection as the Part D RAC
2. Copy of the completed evaluations of plan sponsors' anti-fraud plans, which were conducted by Strategic Health Solutions

3. HPMS memos to plan sponsors that contain guidance about the Part D RAC
4. Percentage of false positives (that is, instances of DVC disagreeing with ACLR and the potential overpayment being removed from further consideration) for each audit issue area to date
5. Issues identified with the methodology ACLR used for duplicate payment review and CMS's suggestions for how to change it
6. Examples of monthly reports the DVC sends to CMS

Due Date: Thursday, November 6th

Angela Mason-Elbert, JD, MS
Health Insurance Specialist
CMS/CPI/BOS
410.786.8279
angela.mason-elbert@cms.hhs.gov

The information provided in this email is only intended to be general summary information to the public. It is not intended to take the place of statute, regulations or official CMS policy.

Audit Issue	Plan Year(s)	RAC Population Size	Exceptions Found	Unit of Measure for Population	Error Rate (Column D Divided by Column C)	Date Validation Completed
Excluded Providers	2007	360	37	Prescribers	10.28%	4/26/2012
Excluded Providers Appeals	2007	200	49	Prescribers	24.50%	8/13/2012
Excluded Providers	2008-2009	292	76	Prescribers	26.03%	6/3/2013
Excluded Providers	2010-2011	99	16	Prescribers	16.16%	4/8/2014
DEA Schedule Refill Errors Non-LTC RFI	2010	1,032	22	National Drug Code (NDC)	2.13%	4/3/2014
Unauthorized Prescribers	2009-2011	5,858	38	Prescribers	0.65%	2/12/2014
Unauthorized Prescribers	2012	1,358	45	Prescribers	3.31%	4/18/2014
Duplicate Payments RFI	2010-2012	2,178,030	14,225	Prescriptions	0.65%	6/25/2014